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**TERMINAL DISCLAIMER TO OBIVATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)

00041.11CON

In re Application of: Rabinowitz et al.

Application No.: 10/766,574

Filed: January 27, 2004

For: Delivery of Compounds for the Treatment of Migraine Through an Inhalation Route

The owner\*, Alexza Molecular Delivery Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/735,198, filed on 12/12/03, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 48,053

Darla G. Yoerg  
Signature

August 23, 2005  
Date

DARLA G. YOERG  
Typed or printed name

303-268-0066  
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- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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